

Broadcasting station; free air time to political candidates. An organization exempt under section 501(c)(3) of the Code, operating a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office in compliance with section 312(a)(7) of the Federal Communications Act of 1934 as amended and endorsing no candidate or viewpoint.

Advice has been requested whether, in the circumstances described below, an organization has participated in political campaigns on behalf of candidates for public office within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954.

The organization, a nonprofit corporation formed exclusively for religious and educational purposes, is recognized as exempt from Federal income tax as an organization described in section 501(c)(3) of the Code. In furtherance of its stated purposes, the corporation operates a noncommercial broadcasting station that presents religious, educational, and public interest programs.

In accordance with the requirements of the Federal Communications Act of 1934, as amended, 47 U.S.C. 312(a)(7) (Supp. II, 1972) (the Act), the organization makes reasonable amounts of air time available, without charge, to bona fide legally qualified candidates for elective public office in order that they may present their viewpoints and urge their election to public office. Equal opportunities are afforded all such candidates for the same public office to present their views. Before and after each broadcast, a statement is made by the station that the views expressed are those of the candidate and not those of the station; that the station endorses no candidate or viewpoint; that the presentation is made as a public service in the interest of informing the electorate; and that equal opportunities will be presented to all bona fide legally qualified candidates for the same public office to present their views. In providing free air time to the candidates, the station complies in all respects with the equal opportunities requirements of the Act.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations that are organized and operated exclusively for educational purposes and that do not participate in any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations defines the term 'educational' as the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(c)(3)(i) of the regulations provides

that an organization is not operated exclusively for one or more exempt purposes if it is an 'action' organization.

Section 1.501(c)(3)-1(c)(3)(iii) of the regulations provides, in part, that an organization is an action organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the making of oral statements on behalf of or in opposition to such a candidate.

The provision of broadcasting facilities to bona fide legally qualified candidates for elective public office, under the circumstances described above, furthers the education of the electorate by providing a public forum for the exchange of ideas and the debate of public issues which instructs them on subjects useful to the individual and beneficial to the community. Providing of a forum for the presentation of opposing candidates and points of view to the public assists in providing the electorate with information concerning the candidates for public office and better enables them to exercise their voting rights.

The fact that the organization makes its facilities equally available to the candidates for public office does not make the expression of political views by the candidates the acts of the broadcasting station within the intendment of section 501(c)(3) of the Code. Cf. Rev. Rul. 72-512, 1972-2 C.B. 246, which states a university is not participating in political campaigns within the meaning of section 501(c)(3) by providing a political science course that requires the students' participation in political campaigns of their choice and Rev. Rul. 72-513, 1972-2 C.B. 246, which states that the provision of facilities and faculty advisors for a campus newspaper that publishes the students' editorial opinions on political and legislative matters does not constitute an attempt by the university to influence legislation or participate in political campaigns. The broadcasting station, by reason of its disclaimers and the presentation of equal opportunities for all bona fide legally qualified candidates for the same elective public office to express their views, is not participating or intervening on behalf of or in opposition to any candidate for public office and is therefore not an action organization.

Accordingly, the organization's compliance with the requirements of section 312(a)(7) of the Act does not constitute participation in political campaigns on behalf of candidates for public office within the meaning of section 501(c)(3) of the Code.